

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DAVID FARKAS

Plaintiff,

13 Civ. 6103 (20) (13)

-against-

ANSWER

M&M RECOVERY SERVICES, LLC

Defendant(s).
-----X

I.

ADMISSIONS & DENIALS

1. Denies each and every allegation contained in paragraph 1, except admits that this Court has jurisdiction over cases arising under 47 USC Section 227 (b)(3); 47FR Section 64.1200 (c)(a); NYGBL Section 349 under supplemental jurisdiction laws provided by 28 USC Section 1367.

2. Denies, each and every allegation contained in paragraph 2, except admits the defendant is a New York LLC.

3. As to paragraph 3, defendant denies that it violated General Business law Section 349.

4. As to paragraph 4 the defendant admits the court has jurisdiction, but denies it caused injury to plaintiff, within the State of New York and further denies it was engaged in service activities in obtaining consumer information from reporting agencies.

5. Admits that venue is proper as stated in paragraph 5 but denies any wrongful conduct occurred.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 and leaves the interpretation of TCPA 47, USC Section 153 (10) to the Courts.

7. Admits the allegations of paragraph 7.

8. Admits that defendant acts as a Debt Collector as stated in paragraph 8 but leaves to the Court the interpretation of TCPA 47 U.S.C. Section 153 (10).

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10.

11. Plaintiff has omitted paragraph 11, however defendant repeats and re-alleges each and every allegation in paragraphs 1-10 as set forth at length herein.

12. Denies knowledge or information sufficient to form a belief as to whether plaintiff received calls on his cellular phone number ending in (xxx-xx-0767) from defendant's phone 914-654-3069 or 914-654-3000 and denies that plaintiff uses or has used in over five years an automatic telephone dial system (ATDS) with artificial prerecorded voices seeking to collect an alleged debt belonging to someone other than plaintiff as set forth in paragraph 12.

13. Denies each and every allegation contained in paragraph 13 of the complaint and specifically denies attempting to contact someone with the name of "Seeza Castillo"; however admits to having attempted to reach a person named Ceasar Castillo

14. Denies each and every allegation contained in paragraph 14.

15. Denies each and every allegation contained in paragraph 15.

16. Denies each and every allegation contained in paragraph 15 except admits that it did try to reach a Ceasar Castillo

17. Admits the allegations of paragraph 17.

18. Denies each and every allegation contained in paragraph 18 except admits defendant received a document requesting payment of money allegedly in an attempt to settle plaintiff's claim

19. Defendant's copy of plaintiff's complaint is not legible so it cannot respond properly.

20. Defendant denies any violation of TCPA 47 USC Section 227 et Seq has occurred and leaves same to the interpretation of the Court.

21. Defendant repeats and re-alleges each and every allegation contained in paragraphs 1-20 as set forth at length herein.

22. Denies use of any ATDs and/or artificial pre recorded voice messages, as set forth in paragraph 22, however admits calling a number ending in 0767.

23. Denies use of artificial and/or prerecorded message and denies knowledge or information as to what plaintiff claims to have heard as alleged in paragraph 23.

24. Denies each and every allegation contained in paragraph 24 and affirmatively states that it does not utilize prerecorded calls or messages.

25. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25.

26. Denies knowledge or information sufficient to form a belief as to the truth of paragraph 26, however affirmatively states that defendant was supplied a telephone

number for Caesar Castillo ending in 0767 by its client for the purpose of collecting this debt.

27. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 and leaves to the court the interpretation of Section 47 USC Section 227 (B)(1)(A)1

28. Denies knowledge or information sufficient to form a belief, as to the truth of the allegations contained in paragraph 28, however defendant was supplied said number by its client for the purpose of contacting Caesar Castillo.

29. Denies each and every allegation contained in paragraph 29 of the Complaint, and leaves the interpretation of the sections referred to the court.

30. Denies any violation of TCPA and other Sections referred to in this paragraph and denies plaintiff is entitled to any statutory damages as set forth in paragraph 30 of the complaint.

31. Denies each and every allegation of paragraph 31 of the complaint, and leaves to the court the interpretation of Section 47 USC Section 22 (B)(3)B

32. Defendant alleges and re-alleges all paragraph number 1-31 as set forth at length herein.

33. Denies that any violation of the statute occurred as set forth in paragraph 33 of the complaint and leaves to the Court the interpretation of section 349 of the General Business Law

34. Denies any violation of Section 349 of the General Business Law and denies knowledge or information sufficient to form a belief as to whether plaintiff suffered stress or anxiety as set forth in paragraph 34 of the complaint.

complaint, and leaves interpretation of the TCPA to the Court.

36. Denies that it has made any calls as set forth in paragraph 36 off the complaint, and leaves interpretation of the FCC to the Court.

37. Denies that it has made any calls as set forth in paragraph 37 of the complaint, and leaves to the Court the interpretation of Article 29-H of the FDCPA to the Court.

38. Denied each and every allegation contained in paragraph 38, except admits that defendant attempted to place calls to a number ending in 0767, which was supplied by defendant's client, none of which were answered.

AS AND FOR AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted.

Wherefore, the defendant requests that the Complaint be dismissed.

Dated: New Rochelle, New York

September 18, 2013

Yours, etc.

MELTZER & PRAVETZ, LLP
Attorneys for Plaintiff

BY: 

MICHAEL A. MELTZER (7723)
145 Huguenot Street, Ste. 325
New Rochelle, NY 10801
(914) 712-2000

STATE OF NEW YORK
COUNTY OF WESTCHESTER

CAROL M..PRAVETZ, is a member of M&M Recovery Services, LLP, the defendant herein; deponent has read the foregoing Answer and knows the contents thereof; and the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes is to be true. This verification is made by deponent because Defendant is a corporation and deponent is a member thereof. The grounds of deponents belief as to all matters not stated upon deponent's knowledge are as follows: Books and Records of Plaintiff.


CAROL M. PRAVETZ



Sworn to before me this
19TH day of SEPTEMBER 2013

Michael A. Meltzer
Notary Public, State of New York
No. 4941401
Qualified in Westchester County
Commission Expires 8/8/14

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF WESTCHESTER)

SS.:

TREVOR WILLIAMS being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age and resides at
NEW ROCHELLE, NY

On SEPTEMBER 26, 2013, deponent served the within **ANSWER** upon:

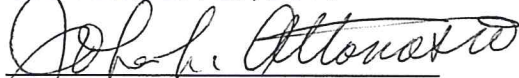
DAVID FARKAS
PO BOX 54
MONROE, NY 10949-0054

by depositing a true copy of same enclosed in a post-paid properly addressed wrapper,
in a post office-official depository under the exclusive care and custody of the United
States Postal Service within the State of New York.



TREVOR WILLIAMS

Sworn to before me on
SEPTEMBER 26, 2013



Notary Public

JOHN L. ATTANASIO
Notary Public, State of New York
No. 01AT4675522
Qualified in Suffolk County
Comm. Expires ~~12~~

7/2/2015

MELTZER & PRAVETZ, LLP

Index No. 13 Civ. 613 (20) (13)
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Year 2013

DAVID FARKAS,

Plaintiff(s),

against

M&M RECOVERY SERVICES, LLC,

Defendant(s).

ANSWER

Meltzer & Pravetz, LLP

Attorney for Plaintiff
Office and Post Office Address, Telephone
145 Huguenot Street
Suite 325
New Rochelle, NY 10801
(914) 712-2000

To

Attorney (s) for

Service of a copy of the within

is hereby admitted.

Dated,

.....
Attorney (s) for

Sir:-Please take notice

☐ **NOTICE OF ENTRY**

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the withing named court on

☐ **NOTICE OF SETTLEMENT**

that an order of which the within is a true copy will be presented for settlement to
the HON. one of the judges of the within named court, at
on 20 at M.
Dated, Yours, etc.

To

MELTZER & PRAVETZ, LLP
Attorney for Plaintiff
Office and Post Office Address, Telephone
145 Huguenot Street, Suite 300
New Rochelle, NY 10801
(914) 712-2000